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GOVERNOR

STATE OF MAINE
MAINE DEPARTMENT OF AGRICULTURE, FOOD & RURAL RESOURCES
BOARD OF PESTICIDES CONTROL
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SETH H. BRADSTREET III
COMMISSIONER
HENRY S. JENNINGS
ACTING DIRECTOR

BOARD OF PESTICIDES CONTROL

October 13, 2006

Pine Tree Arboretum Viles Conference Room
Route 9, Hospital Street, Augusta
(Across from the AMHI Complex)

MINUTES

9:30 A.M.

- ☒ Chairperson Eckert called the meeting to order at approximately 9:35 a.m. Jemison, Humphreys, Stevenson, Walton and Qualey were also present.

1. Introductions of Board and Staff

- ☒ The Board and Staff introduced themselves.

2. Minutes of the September 15, 2006, Board Meeting

Action Needed: Amend and/or Approve

Presentation By: Henry Jennings
Acting Director

- ☒ Jennings noted that Schlein had found a typo under item four of the minutes. In the third sentence, the word "be" was omitted.

Humphreys/Stevenson: Moved and seconded approval of the minutes as amended.

In favor: Unanimous

3. Review of Draft Browntail Moth Report to Legislature

Public Law 2006, Chapter 553 required the Board to conduct a monitoring program of spraying performed near marine waters. It also directed the Board to complete an assessment of the risks and benefits of controlling the browntail moth and report its findings and recommendations to the Legislature by January 2, 2007. In response, the Board's staff worked with members of the Environmental Risk Advisory Committee (ERAC) to plan and conduct a monitoring program in late May of 2006. In addition, the Board held a public information gathering meeting in Freeport on July 21, 2006. Four people testified and eleven submitted written comments. On September 13, 2006, Diane Cowan of the Lobster Conservancy presented lobster molting data to the ERAC. At that

meeting, the ERAC also reviewed the monitoring results and crafted some proposed revisions to the current legislative restrictions. The staff utilized that information to prepare a draft report to the Legislature for Board review.

Presentation By: Henry Jennings
Acting Director

Action Needed: Provide Input to Staff on Draft Report

- ☒ Jennings explained that a report on browntail moth spraying is due to the Joint Standing Committee on Agriculture, Conservation and Forestry by January 2, 2007. He directed the members to the staff's draft report and suggested the first full paragraph on page five may need editing to reflect information provided to the ERAC by Dr. Diane Cowan.

Members generally agreed that the draft report with the two proposed attachments was a little redundant and confusing since all three documents discussed monitoring. Eckert recommended preparation of a concise, non-technical summary with the conclusions stated in the beginning in case legislators do not have much time to read the entire packet.

Humphreys pointed out that none of the proposed documents addressed aerial spraying of Dimilin. There was agreement a paragraph should be added to the cover letter to address this topic. The staff agreed to incorporate the Board's recommendations in a new draft to be presented at the next monthly meeting.

4. Review of Additional Housekeeping Amendments to the Board's Rules

The Board has reviewed a number of proposed rule amendments over the last two monthly meetings and plans to combine several minor changes in one rulemaking proceeding. The staff will present a few more proposed minor amendments for the Board to consider for inclusion with the upcoming rulemaking effort.

Presentation By: Henry Jennings
Acting Director

Action Needed: Review/Revise Minor Amendments and Determine Whether to Include Them

- ☒ Jennings reviewed the memo outlining the four rulemaking proposals the Board had discussed at previous meetings and introduced four other minor amendments for consideration. Three of the four new proposals were housekeeping changes and the fourth arose from the 2006 planning session. Members reviewed the four additional proposals and directed the staff to move forward with them.

Jemison/Humphreys: Moved and seconded that the staff proceed with the additional rulemaking amendments to Chapters 10, 21, 27 and 28.

In favor: Unanimous

5. Continued Discussion about Forming a Stakeholders Committee to Address Aerial Application Issues

At its July 21, 2006, meeting, the Board reviewed its prioritized list of discretionary tasks arising from its planning session in which aerial application issues ranked as the top priority. Consequently, the Board directed the staff to develop two committees to work on the issues: a technical committee to review recent research and a stakeholders committee to develop recommended changes. Composition of the technical committee was determined at the September 15 meeting. The staff will seek additional Board input on development of the stakeholders committee.

Presentation By: Henry Jennings
Acting Director

Action Needed: Provide Guidance on the Composition and Charge of the Stakeholders Committee

- ☒ Jennings stated the intent is to continue discussing formation of this committee in order to finalize the structure by the end of the year. He informed the Board that Don Flannery of the Maine Potato Board and Harris Parnell of the Toxics Action Center contacted him recently to affirm their interest as important stakeholders in the issue.

Members agreed that priority should be given to those stakeholders directly impacted by drift and those potentially impacted by changes. Residents abutting blueberry fields are the first group that should be represented since they pushed to bring the issue before the Board. The other important stakeholders include the blueberry, potato and forestry industries since they are most likely to use aerial applicators.

Board members also discussed other participants and the size of the committee. The concept outlined in the Board packet in which there would be four participants from three groups of stakeholders met with general approval. The staff agreed to consider Board input and recommend a final committee makeup at the next meeting.

6. Review of Draft Best Management Practices (BMPs) for the Application of Turf Pesticides and Fertilizers

At the July 25, 2005, meeting, the staff presented information on pesticide use by lawn care companies during an exceptionally wet period in May. Consequently, members directed the staff to seek volunteers to serve on a stakeholder committee to develop turf care best management practices to protect water resources. The Board reviewed a list of individuals who expressed an interest in participating on a committee at the February 24, 2006, meeting, and directed Fish, Simonds and Jemison to choose the membership and convene the stakeholders committee. The committee met three times and produced a set of draft BMPs for review by the Board.

Presentation By: Gary Fish
Certification Specialist

Action Needed: Amend and/or Accept the BMPs

- ☒ Fish introduced the draft BMPs by explaining they are not mandatory and therefore require buy-in from the regulated community. He reported the intent is to present the BMPs during the winter training period and solicit additional comments. Board members discussed different strategies for getting applicators to adopt the BMPs. Members felt that education would be key and that applicators should recognize that adopting the BMPs should be good for business also. Members agreed the staff should move forward with the BMPs as drafted.

7. Review of Draft Browntail Moth Spray Monitoring Report

Public Law 2006, Chapter 553 required the Board to conduct a monitoring program of spraying conducted near marine waters. The staff met with members of the ERAC and the laboratory on April 12 to plan the monitoring program. Monitoring was conducted on four separate sites in late May. The staff is seeking Board input on a draft report of that monitoring effort which will become an attachment to the legislative report.

Presentation By: Heather Jackson
Water Quality Specialist

Action Needed: Amend/Accept the Report

- ☒ Jackson explained the report details the monitoring conducted by the staff with four different tree companies at four different sites. She felt the data demonstrates the buffers would be protective of marine waters as long as applicators adhere to the wind speed and direction requirements. Members stated the results are clearly presented and useful. They concurred on accepting the report and recommended that the copies to the Legislature include color photos to better illustrate the spray patterns.

8. Other Old or New Business

a. Yardscaping Update – G. Fish

- ☒ Fish reported on the fundraising press event that took place at the Back Cove in Portland. He stated the coalition was looking to raise \$65,000 to fund the rest of the project.

b. Technical Committee Update – H. Jennings

- ☒ Jennings reported the technical committee had been formed and was scheduled to have their first meeting on October 23.

9. Schedule and Location of Future Meetings

November 17 and December 15, 2006, are the tentative dates for the next Board meetings.

Additional Dates:

- ☒ Jennings reminded members of the November 17 and December 15 dates selected at the previous meeting. He reported that the November 17 meeting will be held in Waterville at the Hampton Inn, and will begin with a public hearing on eight housekeeping amendments. Members then selected January 19 as the next meeting date, with January 26 as the snow date.

10. Adjourn

- ☒ Jemison/Walton: Moved and seconded that the meeting adjourn

In Favor: Unanimous

Respectfully Submitted

Henry Jennings